



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815  
(916) 323-2514 • (916) 324-0908 FAX • [WWW.CALEPA.CA.GOV](http://WWW.CALEPA.CA.GOV)

LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER  
GOVERNOR

Certified Mail: 7003 1680 0000 6174 9354

December 21, 2007

Mr. Michael Israel, Director  
Amador County  
Department of Environmental Health  
810 Court Street  
Jackson, California 95642-2132

Dear Mr. Israel:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of Amador County Department of Environmental Health Certified Unified Program Agency (CUPA) on November 28 and 29, 2007. The evaluation was comprised of an in-office program review and field oversight inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Amador County Environmental Health Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Jennifer Lorenzo every 90 days after the evaluation date. The first deficiency progress report is due on March 3, 2008.

Cal/EPA also noted during this evaluation that Amador County Environmental Health Department has worked to bring about a number of local program innovations, including their intensive compliance assistance with the new regulated business community and their processes in identifying potential regulated facilities. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

[Original signed by Don Johnson]

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

Enclosure

cc/Sent via email:

Mr. Robert Fourt  
Environmental Health Specialist III (CUPA Manager)  
Amador County Department of Environmental Health  
810 Court Street  
Jackson, California 95642-2132

Mr. Terry Snyder  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Frederick Thomas  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Mr. Jeffrey Tkach  
Governor's Office of Emergency Services  
P.O. Box 419047  
Rancho Cordova, California 95741-9047

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cc/Sent via Email:

Mr. Kevin Graves  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Ms. Terry Brazell  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Charles McLaughlin  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Ms. Maria Soria  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710

Mr. Ben Ho  
Office of the State Fire Marshal  
P.O. Box 944246  
Sacramento, California 94244-2460

Mr. Brian Abeel  
Governor's Office of Emergency Services  
P.O. Box 419047  
Rancho Cordova, California 95741-9047



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Enclosure



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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

### **CUPA: AMADOR COUNTY ENVIRONMENTAL HEALTH DEPARTMENT**

**Evaluation Date: November 28 and 29, 2007**

#### **EVALUATION TEAM**

**Cal/EPA:** Jennifer Lorenzo  
**SWRCB:** Terry Snyder  
**OES:** Jeffrey Tkach  
**DTSC:** Frederick Thomas

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Jennifer Lorenzo at (916) 327-9560.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
<b>1</b>	<p>The CUPA does not have Administrative Enforcement Order (AEO) form incorporated into their Inspection and Enforcement (I&amp;E) Program Plan.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2005.</p> <p><b>EO-02-003-PP [Cal/EPA]</b></p>	<p>This deficiency is withdrawn. No further corrective action is required. An AEO form is not required to be incorporated into a CUPA's I&amp;E Program Plan.</p> <p>Additionally, a draft revision of the CUPA's Hazardous Materials Ordinance and Inspection and Enforcement Program Plan, containing the AEO policy and procedure, were submitted to the Amador County Board of Supervisors for approval in September 2007. In January 2008, the CUPA will conduct workshops to educate the public about the revised Hazardous Materials Ordinance and I&amp;E Program Plan.</p>
<b>2</b>	<p>The CUPA is not implementing and enforcing the requirements of the business plan program for all handlers subject to the program. Specifically, the CUPA is neither regulating nor properly exempting agricultural handlers subject to the business plan program.</p> <p><b>HSC, Chapter 6.95 Section 25503.5(a) [OES]</b></p>	<p>By May 28, 2008, the CUPA must submit an action plan, with projected timeline, to either regulate all farms subject to the business plan program or to properly exempt these businesses under HSC, Chapter 6.95, Section 25503.5(c)(2), (3), (4) or (5).</p>

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<b>3</b>	<p>The CUPA's Area Plan does not have all the required elements.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2005 and remains outstanding.</p> <p><b>HSC, Chapter 6.95, Section 25503 (c) [OES]</b></p>	<p>The CUPA has applied for and received a Hazardous Materials Emergency Planning (HMEP) grant to prepare an Area Plan. By November 29, 2008, the CUPA shall have an approved Area Plan implemented.</p>
<b>4</b>	<p>The CUPA is not inspecting all businesses subject to the business plan for compliance every three years.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2005 and remains outstanding.</p> <p><b>HSC, Chapter 6.95 Section 25508 (b) [OES]</b></p>	<p>By March 3, 2008, the CUPA must submit an action plan outlining how the CUPA will maintain their inspection frequency. By December 1, 2008, the CUPA will have at least a third of their business plan facilities inspected.</p>
<b>5</b>	<p>The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements to annually submit their hazardous materials inventory or certification statement.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2005.</p> <p><b>HSC, Chapter 6.95, Section 25503.3 CCR, Title 19, Sections 2729.4 and 2729.5 [OES]</b></p>	<p>This deficiency has been corrected.</p> <p>Out of the nine files reviewed, eight files contained current annual inventories with either certifications or updated inventory sheets.</p>
<b>6</b>	<p>The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements, to certify and review the update of the entire business plan every three years.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2005.</p> <p><b>HSC, Chapter 6.95, Section 25505 (c) [OES]</b></p>	<p>This deficiency has been corrected.</p> <p>Out of the nine files reviewed, eight files had their Business Plan reviewed and updated within the last three years.</p>
<b>7</b>	<p>The CUPA does not have a California Accidental Release Prevention (CalARP) dispute resolution procedure. A draft resolution procedure was presented at the time of the evaluation.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2005 and remains outstanding.</p> <p><b>CCR, Title 19, Section 2780.1 [OES]</b></p>	<p>By March 3, 2008, the CUPA must have their CalARP dispute resolution procedure finalized and implemented.</p>
<b>8</b>	<p>The UST plot plans did not contain all the required elements. The plot plans were missing the location(s) of where the monitoring will be performed. Examples of missing locations include the sensors for tanks, sumps, under-dispenser containments, line leak detectors, and monitoring panels for automatic tank gauge and alarms.</p>	<p>Beginning November 29, 2007, UST plot plan requirements will be modified to include location of all leak detection monitoring equipment. The CUPA will request for updated plot plans to be submitted by the facility's annual inspection date. In addition, the CUPA</p>

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	CCR, Title 23, Sections 2632(d)(1)(C) and 2641(h) [SWRCB]	will ensure that new permit application materials contain completed plot plans. By December 1, 2008, the CUPA will ensure that all UST plot plans contain all the required elements.
9	<p>The CUPA is not conducting hazardous waste generator inspections with a frequency consistent with their I&amp;E Program Plan, which is triennial. The last three Annual Inspection Summary Reports indicate the following:</p> <ul style="list-style-type: none"> <li>• In FY 04/05, two out of 53 (4%) hazardous waste generator facilities were inspected;</li> <li>• In FY 05/06, zero out of 53 (0%) hazardous waste generator facilities were inspected; and</li> <li>• In FY 06/07, nine out of 50 (18%) hazardous waste generator facilities were inspected.</li> </ul> <p>CCR, Title 27, Section 15200 (a)(3)(A) [Cal/EPA &amp; DTSC]</p>	<p>By December 31, 2007, the CUPA will develop a strategy and begin implementation of a plan to ensure adherence to the triennial inspection frequency requirement as noted on their I&amp;E Program Plan.</p> <p>Beginning March 3, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.</p>
10	<p>The CUPA did not conduct a complete inspection on November 27, 2007. During the inspection, the following were observed:</p> <ol style="list-style-type: none"> <li>1) The inspector failed to check fire extinguishers for annual inspection dates as required by CCR, Title 22, Section 66265.33.</li> <li>2) The inspector failed to require the operator to close hazardous waste containers as required by CCR, Title 22, Section 66265.173(a).</li> <li>3) The inspector failed to determine if spent lead-acid batteries were being managed correctly as required by CCR, Title 22, Section 66266.81.</li> </ol> <p>CCR, Title 22, Sections 66265.33, 66265.173(a), and 66266.81 [DTSC]</p>	By November 29, 2008, the CUPA shall have moved from outreach to full health and safety compliance inspections.
11	<p>The CUPA is not documenting violations in a manner consistent with the definitions of minor, Class II or Class I as provided in law and regulation.</p> <p>CCR, Title 27, Section 15200(f)(2)(C) and 66260.10 [DTSC]</p>	Beginning November 29, 2007, the CUPA will document all violations on their inspection reports even if the violations are corrected on site.
12	<p>The CUPA is unable to document that all facilities that have received a notice to comply, citing minor violations, have returned to compliance within 30 days of notification. During the file review, it was observed that minor violations did not have a record of return to compliance. The business shall either submit a Return to Compliance Certification in order to document its compliance or, in the absence of certification, the CUPA</p>	By December 31, 2007, the CUPA shall ensure that facilities, who are cited for minor violations during hazardous waste inspections, have either submitted a Return to Compliance letter or the CUPA has re-inspected the facility within the required corrective action date.

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	shall re-inspect the business to confirm that compliance has been achieved.  <b>CCR, Title 27, section 15200(f)(2)(C) [DTSC]</b>	
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**CUPA Representative**

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ROBERT FOURT  
(Print Name)

\_\_\_\_\_  
Original Signed  
(Signature)

**Evaluation Team Leader**

\_\_\_\_\_  
JENNIFER L. LORENZO  
(Print Name)

\_\_\_\_\_  
Original Signed  
(Signature)

Certified Unified Program Agency (CUPA)  
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**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.*

1. **Observation:** The CUPA has a single fee collection rate of approximately 99.1%, 96.7%, and 99.1% for the last three fiscal years.

**Recommendation:** The CUPA is able to collect its fees at a high rate and is encouraged to continue to do so.

2. **Observation:** The CUPA's self-audit reports for both FY 05/06 and 06/07 contained information performed in previous fiscal years.

**Recommendation:** While the use of templates reduces the time in generating a completely new document, the CUPA should review the entire self-audit report to ensure that the information contained in the report is accurate and pertains to that particular fiscal year.

3. **Observation:** The CUPA's Annual Inspection and Enforcement Summary Reports for the last three fiscal years contained several blank fields.

**Recommendation:** The CUPA should populate all cells or fields on both the Annual Inspection and Enforcement Summary Reports with an amount or number, else state "0" for none or "NA" for non-applicable items.

4. **Observation:** The CUPA's files were organized by facility name and information was easily obtained.

**Recommendation:** The CUPA is encouraged to continue to maintain their files in a well-kept manner.

5. **Observation:** On the last evaluation in 2005, the CUPA was observed to have little or no coordination with the fire agencies. Since then, the CUPA has improved and also became more involved with other emergency response personnel. Every other month, the CUPA regularly attends the meetings with the County's emergency response personnel, including the Fire Chiefs, County OES, and Ambulances.

**Recommendation:** The CUPA is encouraged to continue to regularly attend the meetings.

6. **Observation:** The CUPA has achieved compliance with the regulated business community through education and outreach rather than through the traditional cite and fine enforcement methods. However, such methods, although ultimately successful in achieving compliance, are resource (staff and time) intensive.

**Recommendation:** Once the revised Hazardous Materials Ordinance and I&E Program Plan are finalized, the CUPA should begin implementing them.

7. **Observation:** Most business plan files reviewed were complete and up-to-date. However, out of the nine random files reviewed, one file was missing an Emergency Response Plan, a completed



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Inventory and Employee Training, four other files were missing Employee Training plans, and one separate file had an incomplete site map.

**Recommendation:** The CUPA should review all business plans to ensure completeness and correctness.

- 8. Observation:** The UST inspection checklist generally identifies all of the elements that the inspector reviews at the site, but Significant Operational Compliance (SOC) items are not indicated on the checklist.

**Recommendation:** The SWRCB encourages the CUPA to improve the inspection checklist by identifying the SOC items on the checklist. This will make compliance determination easier for tracking and reporting purposes.

- 9. Observation:** The CUPA has not been documenting in its past inspection reports that consent has been granted by the owner/operator to enter the place of business to conduct an inspection. The CUPA's UST inspection report does not have a field for documenting consent. The UST inspector did not document consent prior to the inspection on November 27, 2007.

**Recommendation:** The SWRCB strongly encourages the CUPA to document that the facility operator/owner has granted consent to the CUPA inspector to access and inspect the facility. Consent only serves to strengthen any potential enforcement case defeating any potential challenge that the fourth amendment may have been abridged. Also the inspector may find it beneficial to leave a copy of the inspection report with the facility owner/operator after obtaining their signature of understanding.

- 10. Observation:** The CUPA has submitted all of their required Quarterly Report 6 on time.

**Recommendation:** The CUPA is encouraged to continue their submittal of reports in a timely manner.

- 11. Observation:** The hazardous materials and hazardous waste generator facility inspection reports reviewed did not contain a signed consent to inspect by the facility owner/operator. Signed consent on the inspection report is important because it strengthens any potential enforcement case against a non-compliant facility.

**Recommendation:** Document consent granted for all facility inspections by having the owner/operator sign the consent portion of the inspection report.

- 12. Observation:** The CUPA's inspection report contains a space to record the classification of a Class I violation; however, there is no space for any other violation.

**Recommendation:** The CUPA may want to have inspectors note the classification of each violation, or at least the minor violations on all inspection reports to clarify which violations are not subject to formal enforcement if complied within the prescribed timeframes.

- 13. Observation:** The CUPA is not noting resolutions of complaints in the files.

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**Recommendation:** The CUPA should ensure that all complaints are consistently managed to ensure that all complaints are being addressed.

**14. Observation:** The CUPA staff has access to a camera, however, during the file review it was evident that photographs were not taken during inspections.

**Recommendation:** Photographs are useful to document violations and the conditions at facilities at the time of the inspection. Photographs could help strengthen the CUPA's case should enforcement become necessary. Always remember to date stamp photographs.

**15. Observation:** In some of the inspection reports, the Receipt of Report has not been signed by the owner/operator of the facility. Also, some of the inspection reports' checklists are being used inconsistently.

**Recommendation:** The CUPA should verify that the Receipt of Report is reviewed and signed by the owner/operator of the facility. The inspection report checklists should be used consistently.

**16. Observation:** The CUPA has successfully decommissioned several non-operational and non-utilized hazardous waste aboveground storage tanks using DTSC's guideline.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. In addition to the customary identification of regulated facilities by voluntary compliance and complaints, the CUPA has undertaken various other means to identify their regulated universe. The CUPA maintains an excellent relationship with the Building Department. Prior to a facility being issued a building permit, the facility owner/operator must submit a hazardous materials and hazardous waste disclosure form. The CUPA also developed a hazardous materials usage disclosure form that is sent to existing businesses to determine if they are required to obtain a Unified Program Permit to Operate. Additionally, the CUPA has utilized DTSC's hazardous waste manifest database in identifying potential hazardous waste generator facilities that are not otherwise regulated under the CUPA's business plan program and to identify non-manifesting generators of hazardous waste.

Once each new business is identified, the CUPA focuses on education and compliance assistance.

2. The CUPA has uniformly maintained the business plan inventories in an electronic format. The CUPA has scanned all business plans into a computer database and transferred the information onto CD-ROMs for distribution to emergency responders. As such, in addition to providing hard copies of business plans, the CUPA has also given Fire Chiefs the electronic versions of all business plans on a quarterly basis.
3. The CUPA has reduced the risk to public health, safety and the environment by working with CalARP facilities to change their processes and utilize materials of lower toxicity.
4. On November 27, 2007, Inspector Robert Fourt conducted the UST site inspection in a thorough and professional manner. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. Robert required the service technician to test the fail-safe operation of the sensors by disabling the sensor boards in the Veederroot Control Panel. He also allowed the service technician to replace the electronic line leak detector with a different sensor that was functionally the same so the facility could get back into operation. Robert also asked for suggestions on how to improve his inspection technique and procedure.